



FREDERICK COUNTY PLANNING COMMISSION

January 13, 2016

TITLE: Hostetter Grain Silo

FILE NUMBER: SP-06-05, (AP 15900, APFO 15901, FRO 15902)

REQUEST: Site Development Plan Approval

The Applicant is requesting site development plan approval for a 76' diameter, 93' foot tall grain storage silo, on a 5.44-acre site

PROJECT INFORMATION:

ADDRESS/LOCATION: 9819 Kelly Road, located along Kelly Road, east of MD 26.

TAX MAP/PARCEL: Tax Map 58, Parcel 76 & 208

COMP. PLAN: Rural Community

ZONING: R-1 Residential

PLANNING REGION: Walkersville

WATER/SEWER: W-NPS/S-NPS

APPLICANT/REPRESENTATIVES:

APPLICANT: Barry Hostetter

OWNER: Wilmer & Joyce Hostetter

ENGINEER: Lavelle & Associates, Inc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION:

Conditional Approval

ATTACHMENTS:

Exhibit 1-Site Plan Rendering

Exhibit 2- Alternative Landscaping Plan Modification

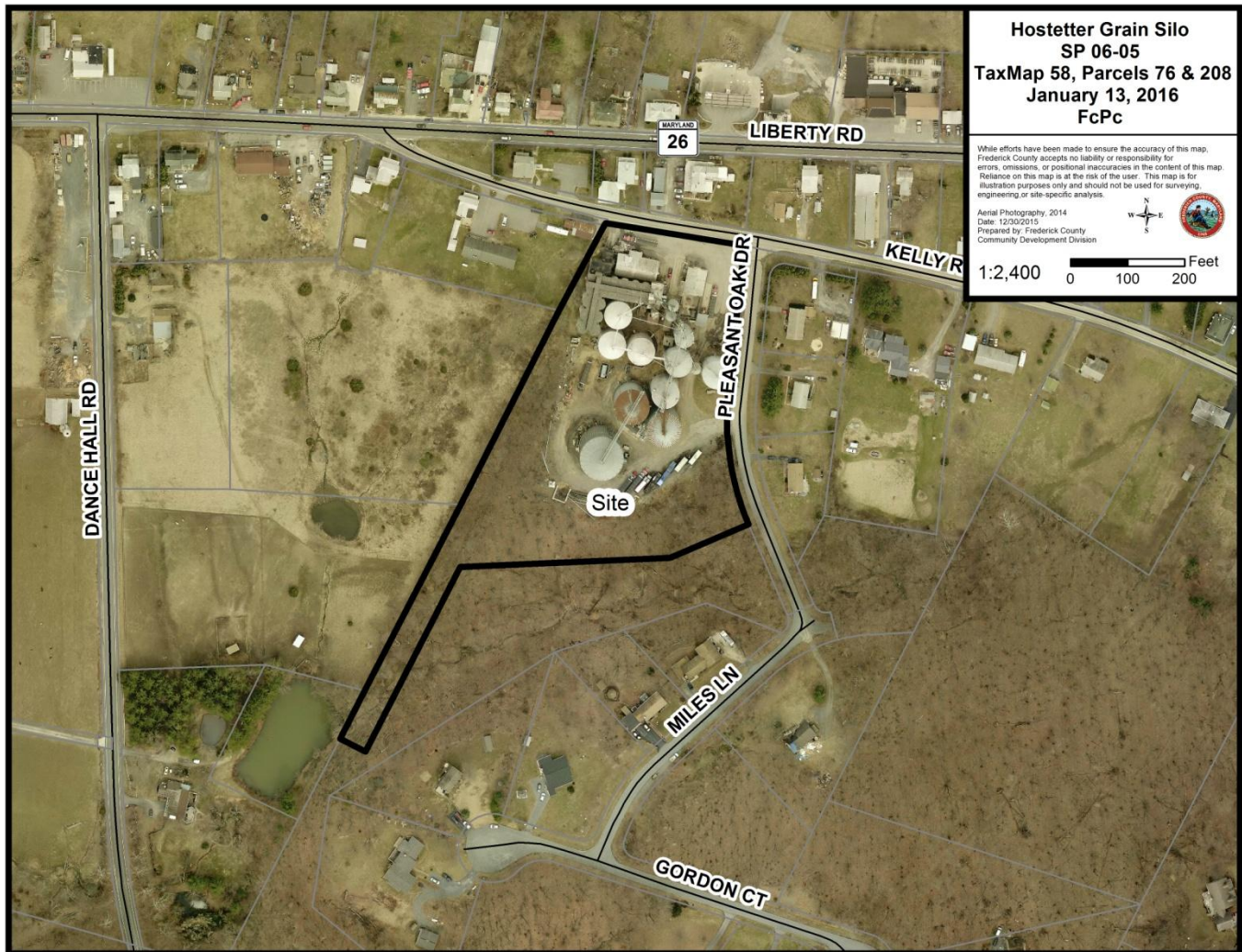
STAFF REPORT

ISSUE

Development Request

The Applicant is requesting site plan approval for a 76' diameter, 93' foot tall grain storage silo, on a 5.44-acre site (see Graphic #1 below). The proposed use is being reviewed as an "Feed and Grain Mill" land use under the heading of *Commercial Uses-Retail* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use as a special exception with site development plan approval in the Residential (R-1) Zoning District.

Graphic #1: Hostetter Grain Storage Silo Aerial



BACKGROUND

Development History

Board of Appeals

The subject parcel is zoned Residential-1 (R1), contains a total of 5.44 acres, and has been operating as with a grain mill business since 1956. The Applicant's business has been granted 5 previous BOA approvals for silos and other expansions (B-80-31, B-87-99, B-91-18, B-06-03, & B-14-21), which were required due to the Residential zoning of the property.

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Ordinance Section 1-19-11.100 defines *NONCONFORMITY* as “A lot, structure, or use lawfully existing before the effective date of any regulation of this chapter, which does not conform to the current regulations of the district in which it is located.”

As per Ordinance Section 1-19-4.230 *NONCONFORMING USES*, Subsection (A) “A nonconforming use is a use which legally exists on January 24, 1977 or at the time of amendment of this chapter but that does not comply with the regulations of the district in which it is located. Nonconforming uses in the same district and will not be modified or enlarged, except with the approval of the Board of Appeals.”

As per Ordinance Section 1-19-4.230 *NONCONFORMING USES*, Subsection (C) “The Board of Appeals may grant an approval to expand a nonconforming use. Expansion is limited to the lot that exists on January 24th, 1977. Additional acreage or dwelling units will not be added to expand a nonconforming use.”

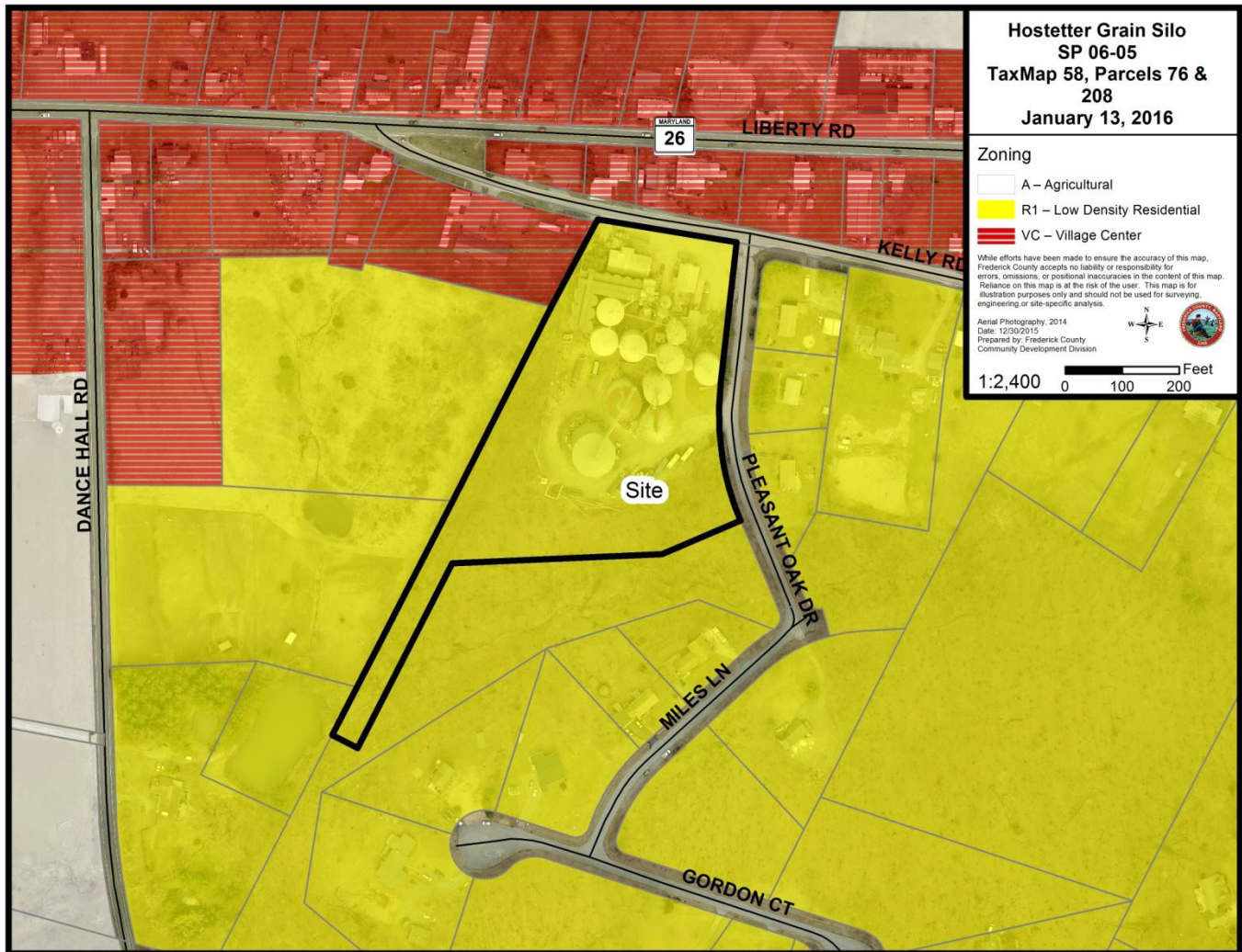
On August 27, 2015, the Board of Zoning Appeals (BOA) adopted their findings and decision of approval to expand a non-conforming use by adding a 93 foot high, 73 foot diameter grain storage silo on 5.44 acres of the subject site within the R-1 Zoning District in accordance with ZO §1-19-3.210 and ZO §1-19-4.230.C. The BOA findings and decision letter is shown on Sheet 1 of the site plan. The subject site plan conforms to the BOA findings and decisions Case B-15-19.

This site had prior site plan approval AP 4889, for a similar 76’ foot diameter, 93’ foot tall grain storage silo on 7/27/2006, that silo was subsequently constructed.

Existing Site Characteristics

The site is currently zoned R-1 Residential, and is developed with a non-conforming use of a grain mill. The properties to the north and west of the site are zoned Village Center with properties to the west and south zoned R-1 (see Graphic 2 below). The property to the north is developed with a consignment shop, the property to the west is developed with a candy business, and the properties to the east and south are developed with single family detached dwellings.

Graphic #2: Zoning



ANALYSIS

Summary of Development Standards Findings and Conclusions

The primary issues associated with this development project were working with the Applicant to meet the intent of the zoning ordinance in a residential and Village Center setting. As part of that process Staff reviewed the proposed grain storage silo separately from the existing portions of the non-conforming Feed and Grain Mill operation.

Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance, as well as the standards for non-conforming uses found in §1-19-4.230.

Site Development §1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.

Findings/Conclusions

1. **Dimensional Requirements/Bulk Standards for non-conforming uses §1-19-4.230:** This site has been an operating grain mill business since 1956. Therefore it is determined to be a nonconforming use which legally existed on January 24, 1977 or at the time of amendment of this chapter, but does not comply with the regulations of the district in which it is located. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except with the approval of the Board of Appeals. The site complies with the regulations governing non-conforming uses and expansions.

The setbacks (front: 40', side: 50', rear: 50') as shown on the site plan and as established in previous approvals are setbacks for a Natural Resource use within the R-1 Residential Zoning District. The proposed grain storage silo adheres to those setbacks.

2. **Signage §1-19-6.300:** No signage proposed as part of this site plan.
3. **Landscaping §1-19-6.400:** The existing site does not fully comply with current parking lot screening, tree canopy and street tree landscaping requirements within the Zoning Ordinance. As is typical with existing developed sites, the Applicant worked with Staff to propose a landscape plan that is commensurate to the current proposed improvements being made to this site. The existing lot configuration prohibits full compliance with the landscaping requirements listed in §1-19-6.400.

In an effort to bring the site more into conformance with the current Code requirements, the Applicant is proposing to plant four Black Spruce trees on both sides of the existing access onto Pleasant Oak Drive. Per §1-19-6.400.A.2, the Applicant is requesting a landscaping modification for approval of an alternative landscape plan to acknowledge existing mature woods on-site as partially meeting the requirement to plant street trees and provide screening between the existing commercial and residential land uses.

4. **Lighting §1-19-6.500:** The Applicant is not proposing any lighting as part of this application.

Conditions

Per §1-19-6.400.I: The Applicant is seeking a Landscape Plan Modification for approval of an alternative landscape plan to allow existing mature woods on-site to meet the street tree and screening requirements.

Transportation and Parking §1-19-3.300.4 (B): *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

Findings/Conclusions

1. **Access/Circulation:** Access for the site is from the existing access points off of Kelly Road as well as Pleasant Oak Drive. There are no alterations being made to the existing access points.
2. **Connectivity §1-19-6.220 (F):** Due to the nature of the existing use and existing surrounding development uses/patterns there is no connection to adjacent parcels existing or proposed as part of this site plan.

3. **Public Transit:** This site is not served by Transit.

4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** The site contains existing parking spaces and loading for the employees of the grain mill. The current expansion will not result in additional employees or require additional parking or loading spaces.

5. **Bicycle Parking §1-19-6.220 (H):** As is typical with existing developed sites improvements are commensurate to the current proposed improvements being made to this site. The Applicant is not proposing any additional parking in conjunction with the proposed expansion of this existing non-conforming use; therefore bicycle parking is not required.

6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** The site contains an Feed and Grain Mill operation and significant pedestrian movement throughout the site is not expected.

Public Utilities §1-19-3.300.4 (C): *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

Findings/Conclusions

1. **Private Well and Septic:** Health Department has reviewed and approved this application.

Natural features §1-19-3.300.4 (D): *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

Findings/Conclusions

1. **Topography:** The site is relatively flat along Kelly Road, sloping gently down to the rear of the site and the existing FRO easement.

2. **Vegetation:** The site contains a large stand of existing mature woodlands along the southeastern property boundary; the remaining areas are actively used in the grain storage business.

3. **Sensitive Resources:** The site contains flooding soils; the soils are identified on the site plan. The sensitive environmental features are not located in the area of the proposed silo and will not be impacted by the placement of the proposed structure.

4. **Natural Hazards:** There are no natural hazards located on site.

Common Areas §1-19-3.300.4 (E): *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

Findings/Conclusions

1. **Proposed Common Area:** The site is a place of business used for farming. There are no common areas proposed.

Other Applicable Regulations

Moderately Priced Dwelling Units – Chapter 1-6A: The proposed use is non-residential; therefore, MPDUs are not required.

Stormwater Management – Chapter 1-15.2: This application is exempt from the 2007 Maryland Stormwater Guidelines because land disturbance is under 5,000 square feet.

APFO – Chapter 1-20:

1. **Schools.** Schools are not impacted because the development of the property is a non-residential use.
2. **Water/Sewer.** The Property has a water and sewer classification of NPS in the County's *Master Water and Sewer Plan*. The property is served by well and interior septic holding tank.
3. **Roads.** This application is exempt from Roads testing due to the development resulting in less than 6 vehicle trips during the AM/PM peak hours.

Forest Resource – Chapter 1-21: FRO for the entire site previously mitigated under AP 5163. On site easement recorded.

Historic Preservation – Chapter 1-23: There are no historic resources on this property. However, the site is partially located within the Mount Pleasant Survey District. The new silo is integrated into the existing on-site development pattern and will therefore have little to no significant impact on the existing neighborhood.

Summary of Agency Comments

Other Agency or Ordinance Requirements	Comment
Development Review Engineering (DRE):	Approved
Development Review Planning:	Hold: Address all agency comments as the plan proceeds through to completion.
State Highway Administration (SHA):	Approved
Div. of Utilities and Solid Waste Mngt. (DUSWM):	N/A
Health Dept.	Approved
Office of Life Safety	Approved
DPDR Traffic Engineering	N/A
Historic Preservation	Approved

RECOMMENDATION

Staff has no objection to conditional approval of the site plan for a 76' diameter; 93' foot tall grain storage silo, on a 5.44-acre site. If the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval or January 13, 2019.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

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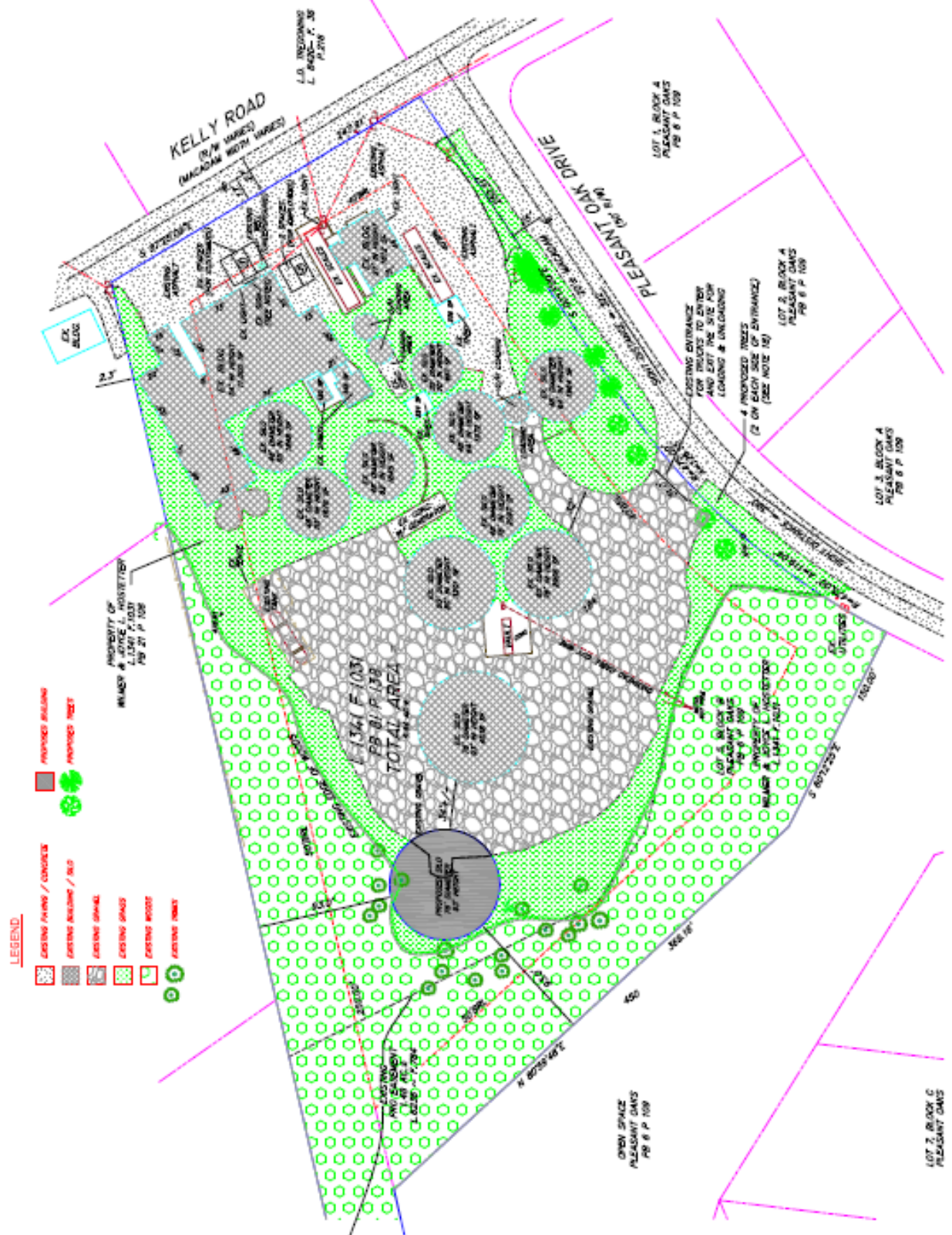
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1. Address all agency comments as the plan proceeds through to completion.
2. Comply with the Board of Appeals findings and conditions as provided in Case No. B-15-19.
3. Planning Commission approval of the alternate landscape plan to allow existing mature woods on-site to meet the street tree and screening requirements.

PLANNING COMMISSION ACTION
MOTION TO APPROVE

I move that the Planning Commission **APPROVE** SP-06-05, AP 15900 **with conditions** as listed in the staff report for the proposed 76' diameter; 93' foot tall grain storage silo, on a 5.44-acre site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



LAVELLE & ASSOCIATES,
INCORPORATED
LAND SURVEYORS • PLANNERS

December 11, 2015

Mr. Tolson Desa
Frederick County
Division of Permitting and Development Review
30 North Market Street
Frederick, MD 21701

RE: **HOSTETTER GRAIN, INC.**
Project Number: 15900

Dear Mr. Desa:

On behalf of our client, we are requesting a landscape modification per 1-19-6.400.1 for street trees and parking area canopy cover.

There is a 1.48 acre Forest Easement along the southern property line.

This is a limited rural agricultural use during seasonal harvest with no retail sales to occur on site.

We appreciate your consideration for this matter.

Sincerely,



Daniel P. Lavelle, Prof. L.S.
President

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